

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

EDDIE LEE GADDIS, JR., #614575 §

VS. § CIVIL ACTION NO. 6:11cv545

BOARD OF PARDONS AND PAROLES §

ORDER OF DISMISSAL

Plaintiff Eddie Lee Gaddis, Jr., an inmate confined at the Eastham Unit, proceeding *pro se* and *in forma pauperis*, filed this lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Second Report and Recommendation concluding that complaint should be dismissed for want of prosecution. The Plaintiff has filed objections.

The Second Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit.

The Plaintiff was ordered to pay an initial partial filing fee of \$.05 on January 3, 2012. He was given thirty days from the receipt of the order to pay the initial partial filing fee. The Court received an acknowledgment from him indicating that he received the order on January 10, 2012. To this day, he has not paid the initial partial filing fee. On February 14, 2012, the Second Report and Recommendation was issued to dismiss the case because the Plaintiff had not paid the initial partial filing fee. The Plaintiff filed objections. He asserted that he paid the fee in January 2012. On March

16, 2012, the Court acknowledged his objections. The checks received by the Court in January and February were reviewed, and there were no checks from the Plaintiff. The Plaintiff was given until March 30, 2012 to submit the initial partial filing fee. He was warned that the Second Report and Recommendation would be forwarded for final consideration if he failed to pay the fee. As of today, he has not paid the fee. His *in forma pauperis* data sheet (docket entry #12) reveals that he had the money to pay the fee at the time it was submitted. The Plaintiff has failed to prosecute the case, thus the lawsuit should be dismissed. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that complaint is **DISMISSED** without prejudice for failure to prosecute and failure to obey an order. Fed. R. Civ. P. 41(b); Rule 41, Local Rules for the Eastern District of Texas. All motions by either party not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 20th day of April, 2012.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "L" at the beginning.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE